THE

WEEKLY INSPECTOR.

" Of those men who have overturned the Liberties of Republics, the greatest number
" have begun their career by paying an obsequious court to the People—com-
" mencing DEMAGOGUES, and ending TYRANTS." HAMILTON.

Vol. II.] NEW-YORK, SATURDAY, AUGUST 1, 1807. [No. 49.

TRIAL OF COL. BURR.

(Continued from page 342.)

Saturday, June 13th.

The chief justice having concluded his opinion, Mr. Mc Rae made some remarks in an address to the court, relative to an expression which had fallen from the chief justice—" if the present prosecution terminates as is wished on the part of the United States." He hoped that nothing had fallen from gentlemen engaged in the prosecution, and nothing had appeared in their conduct, which indicated a wish to convict Aaron Burr. His feelings would be severely wounded by any such imputation.

The chief justice replied that it was not his intention to insinuate that the attornies for the prosecution, or that the administration had wished the conviction of Col. Burr whether guilty or innocent; that his assertion was this: gentlemen had so often and so uniformly asserted that Col. B. was guilty, and they had so often repeated it before the testimony was perceived on which that guilt could alone be substantiated, that it appeared to him probable that they were not indifferent on the subject.

Mr. Mc Rae wished to point out to the court a difference between the opinions and wishes of the counsel for the prosecution. From the testimony they thought it probable that Aaron Burr was guilty, but they had no wish to convict him at all events.

Mr. Hay observed that his conscience was satisfied with the course which he had pursued, and that he should attempt to secure the same sentiment in future, and provided he enjoyed that satisfaction, he should be indifferent to the opinion of others; and should pursue his own judgment. He asked whether he might send up the witnesses to the grand jury.

Mr. Burr pressed on the court the necessity of giving the supplemental charge. That it was necessary, in order to instruct the jury to separate what was proper from what was improper. That if the charge was not delivered for several days, the jury might in the mean time be receiving false impressions, which it would be impossible to separate from their discussions, even after the charge was delivered. He thought that the witnesses ought not to go to the grand jury till the charge was delivered.

Chief justice replied that on Monday morning, if all preliminary points were settled, he would deliver the charge.

Mr. Hay then requested the clerk to swear four of the witnesses. Thomas Truxton, Benjamin Stoddert, and Stephen Decatur, were accordingly sworn, and conducted to the jury room.

Mr. Burr hoped that the court would immediately take up the supplemental charge to the jury. What was the objection which the attorney for the United States has submitted to your honour, and on which you seemed to entertain some doubts?

Chief justice. It is, whether the statute of Edward VI. is now in force in this country.

Mr. Randolph. We are ready on that point.

The clerk then proceeded to call four other witnesses to the book; but when Erick Bollman appeared, Mr. Hay addressed the court to the following effect:

Before Mr. Bollman is sworn, I must inform the court of a particular and not immaterial circumstance. He, sir, has made a full communication to the government of the plans, the designs, and views of A. Burr.

As these communications might criminate Dr. Bollman before the grand jury, the President of the United States has communicated to me this pardon, (holding it in his hand) which I have already offered to Dr. B. He received it in a very hesitating manner; and I think informed me that he knew not whether he should or should not accept it. He took it, as he informed me, for the purpose of taking advice of counsel. He returned it in the same hesitating manner; he would neither positively accept nor refuse it. My opinion is, that Dr. B. cannot, under these circumstances, possibly criminate himself. This pardon will completely exonerate him from all the penalties of the law. I believe his evidence to be extremely material. In the presence of this court I offer this pardon to him, and if he refuses, I shall deposit it with the clerk for his use. Will you, sir, (addressing himself to Mr. Bollman) accept this pardon?

Mr. Bollman. No, I will not, sir.

Mr. Hay then observed that Dr. Bollman must be carried up to the grand jury with an intimation that he had been pardoned.

Mr. Martin observed that it had always been Dr. B.'s intention to refuse this pardon, but he had not positively refused it, because he wished to have an opportunity of publicly rejecting it.

Erick Bollman, William Duane, Peter Taylor, and ——— Allbright, were then sworn by the clerk.

Mr. Martin did not suppose that Dr. Bollman's pardon was real or effectual before it was pleaded to an indictment in open court.

Mr. Hay inquired whether Dr. B. might not pass to the grand jury. The chief justice asked what would be the difference between sending him now and some time hence, when the question about his pardon shall have been settled. Mr. Hay wished to have the evidence introduced in a chronological order. The other witnesses were, however, sent up, and Dr. B. suspended.

Mr. Hay then proposed to send Dr. B. to the grand jury, and proposed as the alternative that he should be indicted.

Mr. Martin declared that Dr. B. was not to be alarmed by such menaces. He said that there was no doubt but Dr. B. would go to the grand jury, but the question was, whether he was pardoned or not. If the executive refuses to pardon him, he is not pardoned; but, said Mr. Martin, if he chooses to decline his pardon, he stands in the same situation of other witnesses, who cannot be forced to criminate themselves.

Mr. Hay regretted extremely the loss of Dr. B.'s testimony, as he believed it to be material: he trusted, however, that he should obtain it, though reluctantly given. Dr. Bollman, he observed, possessed so much zeal, that he would encounter the risk of being indicted for high treason. Whether he should appear before the grand jury under the circumstance of a pardon being annexed to his name, might be an object of distinct arrangement. In the mean time he might go up without such notification. Counsel for Mr. Burr acquiesced. Chief justice. Whether he is really pardoned or not, I cannot at present declare. I must take time to deliberate.

Mr. Hay again asked Dr. Bollman if he accepted the pardon, and was answered again in the negative. Mr. Hay observed that if the grand jury had any doubts about the questions proper to be put to Dr. Bollman, they might apply to the court for instructions, but he asserted, "Dr. Boll-

man is a pardoned man." He wished him sent up to the grand jury certified that he was pardoned. He made this motion that the gentlemen who wished to discuss the question, might have an opportunity of producing their arguments.

Mr. Williams, counsel for Dr. Bollman, observed,

1. That the rule of law was, that no man should be bound to answer any question which should accuse himself. 1 Mc Nally, Ev. 256. 2 Haw. c. 46–2

2. He should not be bound to answer any question which should accuse himself of a misdemeanor. 1 Mc Nall. 256.

3. He shall not be called upon to calumniate himself. 1 Mc Nall. 256. 2 Sta. Trials, 822. 1035. Tabsborough's case.

4. He is not to defame himself. 1 Mc Nall. 256. 258. 2 Sta. T. 439.

5. Not to answer ensnaring questions. Mc Nall. 256.

6. To ask a man if he is a Roman catholic, is not permitted. Mc Nall. 257 9 Sta. T. 414. 2 Dougl. 593.

7. Not bound to answer any question which tends to criminate himself. Mc Nall. 257. 4 Sta. T. 605, 606.

8. The case of Goosely, in this court, upon the trial of Reynolds, was called, who had been acquitted, the day before by the grand jury. So 1 Blacks. Ress. 27.

The rule of law is the same, even if the man be pardoned.

1. A witness, although pardoned, shall not be bound to calumniate himself; for the pardon having placed him in statu quo, no question shall be asked him which shall tend to make him contemptible, or do away the benefit of the pardon. 1 Mc Nall. 256. 2. Sta. T. 822. 1035. If bound to acknowledge himself acquainted with any treason, he was guilty of a very high misdemeanor, and would therefore do away the pardon. But court cannot notice pardon, unless a pardon by State; for if under great seal and accepted, yet it would be error in the court to allow it, if not pleaded. 2 Haw. ch. 37. sec. 59. sec. 64. 65. 5 Bar. 294. If party only entitled upon pleading it then if he refuses, court cannot take notice of it. Here party refusing, court must say not pardoned; for until it is pleaded, party liable to be punished. For if he pleads not guilty, the court would not allow him to plead it afterwards. 2 Haw. ch. 37. See 59. Bar. 294.

The witness must be the judge of the necessity.

1. Because he only can know what the answer is, and the bearing it will have. 2. If the court decide, they must know what would be the answer, and get that from the witness to criminate himself: which I have shown he is not bound to do.

If it be objected that by this means no witness would give evidence against the accused, it may be answered, 1. The refusal is upon oath, because he affirms that to answer it, would be to criminate himself 2. You have the same obligation on him to answer that truly, as to speak truth upon any other subject. 3. If he perjure himself in that, he would certainly do it to get clear of giving evidence against the accused. 4. It is his privilege not to answer any question having that tendency. 5. This rule is upon the following authorities:—The court, in a case in 1743, in 4 Sta. T. 414. note, states, to wit, "if you think it will criminate yourself, you need not answer it." 1 Mc Nall. 257. 8. It is put to the witness, and not to the court, because he knew what was to be the answer: if it be objected that nothing is evidence against him which he may say on oath, the answer is, that it has been otherwise decided. 2 Dougl. 593.

Mr. Martin suggested a few additional authorities. Stated that there were two kinds of pardon in England: one by Parliament, and the other by the Great Seal. The first exempted an individual from the cognizance of the court, as to the particular crime with which he might stand charged. But that the latter was no bar to a judicial prosecution, and was not effectual till it had been pleaded and allow-

ed in court. Mr. M. quoted authorities to show that no witness, however exempted from the charge and necessity of criminating himself, can be made to discredit himself by his own testimony.

Mr. Mc Rae. It is uncertain whether Mr. Bollman will answer the questions propounded to him. It is not necessary to determine this point at the present time. We hope that he will appear in the character of an honourable man; and not refuse to answer the interrogatories of the grand jury. But if he should refuse to pursue that course it will then be time enough to bring a discussion before the court.

Mr. Hay thought little argument necessary. Dr. B. was a pardoned man, and hoped the court would certify that fact for the instruction of the grand jury. Gentlemen seem to concede every point for which they are contending. Why do they expatiate on the consequences of a pardon, if they do not consider one as already established? As to the effect of a pardon, it is a distinct question, on which the court may hereafter instruct the grand jury. But he wished the court merely to certify that he was pardoned.

Mr. Martin said that most of the authorities had borne upon the existence of a pardon, and not upon its effects.

Chief justice. Have any of you authorities to show *when* the pardon operates?

Mr. Martin. From the time of pleading.

C. J. Suppose the pardon to be lost, is it valid?

Mr. Martin. If it be proved that he had pleaded it to an indictment. I presume an exemplification would answer the purpose.

Mr. Martin said that if Bollman had not refused this pardon, it would have been an admission of guilt.

The man who did so much to rescue the Marquis la Fayette, and has been known at so many courts, bears too great a regard for his reputation to abandon his honour through fear of unjust persecution.

Dr. Bollman was sent up to the grand jury without any particular notification.

The question whether he is pardoned, reserved for future discussion.

Mr. Botts observed that there was one point in the supplemental charge which he would notice. In one part the clause of the constitution relating to high treason is quoted, which recognizes the necessity of two witnesses to prove an overt act. In a subsequent part it seemed to be implied that one witness to an overt act was sufficient.

Chief justice. Though the constitution declares that two witnesses are necessary to produce conviction, yet they may not be so absolutely necessary to authorize an indictment. My present impression is, that though there may be two witnesses to the general charge of treason, yet that one witness may be sufficient for one act, and another for another. Ch. justice quoted the statute of Ed. VI. and observed that the law books made this distinction between a trial and indictment.

Mr. Hay. There is on important question worthy of our consideration. In your supplemental charge, sir, you have referred to the statute of Edward VI. But no such statute is now in force here. A general law of the Virginia legislature, in ——— and ———, swept off all British law; and then they set to re-enacting such as were congenial with our form of government. But this statute was certainly in force at the time of the commencement of our revolution; and the question is, whether, if it was in force then, it is in force now. Do gentlemen contend that we are bound by a statute which the government has not adopted?

At the close of the court, the chief justice observed, as the editor (of the Richmond Enquirer) is informed that he had explained the sense in which the words which had been remarked upon by Mr. Mc Roc, had been employed; but that he had no desire that

they should remain in the written opinion. That he did not perceive that they were calculated to excite any feeling; but as it was not his intention to convey an idea that a conviction, right or wrong, was wished; and as that idea might be inferred, and might be thereafter attached to them by those who might see the opinion, without hearing the explanatory words; he had expunged them accordingly: "was wished" were expunged when the editor received the written opinion.

Adjourned till Monday.

(To be continued.)

The following is one of the most pathetic pieces we have ever read; and in argument is not less lucid than it is irresistible in its appeal to the best feelings of humanity. Notwithstanding its length, and the press of other matter, we give it without abridgment, as every sentence contains an important lesson for our countrymen. The editor of this paper is not the personal friend of Col. Burr, and *has always been opposed to his politics.* But he would wish to see no man hunted down by extra-judicial proceedings; for of all sorts of despotism that of the multitude, in which every man plays the tyrant, is the most dreadful.

If private persons are to set themselves over the heads of our courts; denounce the counsel employed for or against the accused, and devote by acclamation the respondent to the infernal gods, we may as well annihilate all forms of law; proceed to tear in pieces the man who has the misfortune of being suspected; and act afresh in this country all the enormities of the worst periods of the French revolution.

BALTIMORE, July 23, 1807.

Messrs. Zebulon Hollingworth, John Gilpin, James Sewell, Thomas W. Veazy.

GENTLEMEN,

I find from the public papers, that on the 4th of July, you respectively officiated in the respective characters of president, vice president, and secretaries, at a meeting of the citizens of Cæcil county, held at Elkton, to celebrate the anniversary of American Independence; and it is as persons who officiated in those characters, and in consequence of your conduct on that occasion, that I now take the liberty of addressing you.

On the 4th of July, 1776, we declared ourselves independent states, free from the tyranny and despotism of any nation on the earth, and proceeded to establish governments for the sacred security of the property, the reputation, the liberty, and the life of every person, who should be so far blest as to be citizens of those governments. We then pledged ourselves to the God of the universe, that the property, the reputation, the liberty, and the life or every citizen should be safe, should be protected against the tyranny of the one or the many—and should only be taken from them by the laws of their country, faithfully, honestly, and impartially dispensed, by an open, *fair, impartial trial, decided upon legal evidence,* in which every benefit to be had from counsel, is secured by the constitution to the citizen, who is as to either assailed.

Let me now ask you, gentlemen, to what use, or more properly, abuse, did you turn the *anniversary of that day?* Was your conduct calculated to preserve and secure those blessings, for the enjoyment of which the people of America heretofore hazarded all that was dear? Or was it calculated to render them more insecure than even under Asiatic despotism?

Let me examine this question. I have seen your lists of toasts drank on that day, as published by yourselves.

On your *volunteers,* I shall make no remarks—after seventeen bumpers had been drank, I can make great allowances for any thing that took place; but for the toasts deliberately prepared, and agreed to be drunk on that day—myself, my fellow-citizens, and the world at large, do and will hold you answerable. Three of those

toasts will be the subject of my animadversions.

The 7th is in the following words: The grand jurors lately impannelled at Richmond to indict the traitors of their country, may their zeal and patriotism in the cause of liberty, secure them a crown of immortal glory, and the fruits of their labour be a death-wound to all conspirators.

The 8th—Luther Martin, the ex-attorney general of Maryland, the mutual and highly respected friend of a convicted traitor—May his exertions to preserve the Catiline of America, procure him a humble coat of tar, and a plumage of feathers, that will rival in finery all the mummeries of Egypt.

The 9th—Aaron Burr, the man who once received the confidence of a free people—may his treachery to his country exhalt him to the scaffold, and hemp be his escort to the republic of dust and ashes.

To any person of common sense, who possesses one sentiment of candour, one human feeling of the heart, it would be supposed, that none but dæmons from hell, could on such an occasion, have deliberately prepared and drank the foregoing toasts, unless they had the most perfect knowledge of Col. Burr's guilt. And even in that case, he would naturally conclude the persons to be *savages* or *descendants* of savages, who when they kill their prisoner, feast their inhuman souls with every cruelty of torture.

But, gentlemen, have you any knowledge that Col Burr is guilty of treason, or of any other offence? Doth either of you know of one single fact to prove upon him guilt of any kind? Why have you not come forward and informed your government? And why had I not the pleasure of seeing you as witnesses at Richmond?

I know your answer. You must confess that you have no personal knowledge of any thing criminal that has been committed by Col. Burr, but that in the Aurora, the Argus, and many other democratic papers, you have seen him charged with not only misdemeanors, but treason, nay, you will probably say, that the president of the United States, in his message to Congress, declared his *guilt to be placed beyond doubt*.

And after the length of time you have lived, a length of time which has whitened some of your heads—after the different public appointments which some of you have executed, am I to put you in mind, that not one shilling's worth of your *dirty property* can be taken from you, without your having an opportunity of being personally heard, nor without *legal evidence*, delivered *on oath* in *your presence*, with liberty on your part to *cross examine*, and by other evidence to contradict? And yet you have to the utmost of your power, wantonly and wickedly assailed the good name, fame and reputation of Col. Burr, upon no evidence! You have done what is still more wicked—you have without any evidence, *assailed his life!* For, are you now, for the first time, to be instructed, that whenever a person is to be tried for a charge, which is punishable with death, he who endeavours to prejudice and inflame the public mind against him; he who does any act of a tendency to prevent the accused from having a fair, dispassionate, impartial trial, is in the eye of God, guilty of as murderous an intention, as if he attempted to plunge a dagger to his heart! Equally murderous, but *infinitely more cowardly*—as the danger of punishment in the first case is meant to be avoided? What think you, gentlemen, of the cowardly wretch, who, anxious for the blood of an enemy, but fearful of danger or of punishment, slips a stiletto into the hand of an assassin, and points to the victim? What think you of yourselves and the rest of those who drank your savage toasts? Would you not have swallowed the beverage in your glasses, had it been the blood of Col. Burr, with more pleasure than the juice of the grape? Would not those who could express such savage delight in the *hope of his death*, could they do it with impunity, rip open his breast, tear out his heart, gnaw it with their teeth, and suck down its blood, as act-

ed the blood thirty Parisians towards the amiable, the accomplished, the beautiful Lamballe! And know you not that the gentleman, whose death would be such a feast to your savage souls, has a daughter as amiable, as accomplished, as lovely as was Lamballe! And to her you have been drinking a life of unutterable misery! You may possibly think this language severe, but in a case like this, *no language can be severe.*

I would wish to harrow up every feeling of your souls, if indeed *such* souls can have any feeling!

You have toasted the grand jury, when you knew not whether they did right or wrong; when you knew not whether the persons indicted, are traitors or innocent citizens; whether the grand jury were actuated by zeal and patriotism in the cause of liberty, or by zeal and sycophancy in the cause of persecution; whether their conduct deserves a crown of immortal glory, or a noose of immortal infamy; for you have no knowledge that can enable you to decide upon the propriety or impropriety of their conduct. The toast, therefore, only stands staring you in the face, to your eternal dishonour, as a proof of your ferocity against colonel Burr. Nor, gentlemen, will the grand jury thank you for the toast. They were gentlemen of honour, of worth, of humanity; they were not actuated by the hellish wish, that the persons, concerning whose conduct they were to inquire, should prove to be guilty; nor did they, in returning the bills true, feel an infernal pleasure. No, sirs, not a man of that grand jury assented to the finding of the bills, whose heart will not enjoy exquisite pleasure should their innocence, on a fair, impartial trial before a petit jury, (if, indeed, such a trial can be had, and which you have murderously endeavoured to prevent,) be made manifest. Not a friend of the gentleman indicted, blames the *grand jury*. But you are to be informed, that the grand jury can only act upon evidence *selected*, and sent to them for the *very purpose* of proving *guilt*; examined ex parte; and that *perjury* can there appear unappalled? And are you to be informed, that the benign spirit of our laws, even after indictment, presumes innocence? Those laws that are said to be our government, which you are bound to support, and yet you, good, virtuous republicans, who boast of your love of liberty, your sacred regard for the laws, and who call yourselves the protectors, the guardians of the rights of every man, have thought proper, not only to *presume guilt*, but have presumed to hold up to the indignation of your country, him whom the laws of your country presume to be innocent!

And now let me inquire, who is this gentleman whose guilt you have pronounced, and for whose blood your *parched* throats so thrist? Was he not a few years past adored by you next to your God, I mean your *earthly God?* for whether you believe in a deity, who has any government over your "*republic of dust and ashes,*" I know not. Were you not then his warmest admirers? Did he not then possess every virtue? Had he then one sin—even a single weakness of human nature? he was then in power. He had then influence. You would then have been proud of his notice. One smile from him would have brightened up all your faces—one frown would have lengthened all your visages.

But he is now a private citizen—he is now no longer in power—he is now persecuted! And, behold, he is now a Catiline,—he is now a traitor,—your prayers are now that he may be exalted to the scaffold—that hemp may be his escort to the republic of "dust and ashes;" and to these invocations you have prostituted the anniversary of a a day, which only ought to be held dear as long as the government, consequently established, shall sacredly protect property, reputation, liberty, and life.

Go, ye holiday, ye sunshine-friends,—ye time-servers,—ye criers of Hosanna to day, and crucifiers to-morrow, go hide your heads if possible, from the contempt and detestation of every

virtuous, every honourable inhabitant of every clime.

Your eighth toast, as it personally relates to myself, gives me no uneasiness. I only notice it, as proving the accursed malignity of your hearts, towards col. Burr.

As to myself, I have never insulted or injured a single individual, who, on that occasion, celebrated the day. In the whole company I had not a personal enemy, nor was there a man among you that had reason to be so; with many of that company, perhaps with all, I had been personally acquainted. I had been in habits of receiving and returning polite attentions; on some, at least, of the company, I had conferred benefits; nor was there one man in the company, on whom I would not have conferred any benefit he needed, and in my power with propriety to have bestowed.—Nay, so well do I know you all, and the good will that you possess for me, that I have the most perfect confidence, had I arrived at Elkton the moment after you had drank your eighth toast, and entered your room, you would have received me in the most friendly manner; you would have requested me to share in the festival; and your politeness would have induced you to have suppressed your ninth and tenth toasts.

Having thus done you justice, having acquitted the company to a man of any personal resentment against me, let me state what was *my conduct*, which induced you deliberately to prepare, and deliberately to drink the eighth toast.

I had appeared as one of col. Burr's counsel; and pray doth not the constitution most sacredly secure to him the benefit of counsel? Can it then be said that a person shall be criminal, or even censurable, for doing what your constitution authorizes him to do? Nay, if by public clamor, counsel is to be intimidated and prevented from appearing for the accused, is not the constitution thereby violated? And is not the accused thereby deprived of a constitutional right, and if convicted, unconstitutionally convicted?

But I appeared in his defence as his friend, not merely as an attorney for my fee.—And how long has it been, or upon what maxim is it established, that to do an authorized act, from motives of friendship, is less honourable than from motives of sordid interest?

But you will say that you believe him guilty of treason. I reply, you have no legal evidence on which you can found this belief. I will further say, that I, who have infinitely better information on the subject, believe Col. Burr to be as innocent of any thing treasonable, in act or intent, as the infant unborn; and that I believe the executive of the United States is at this time of the same opinion—And for the truth of this assertion I appeal to my God. And I further answer, that if col. Burr was as guilty of treason, as you, without any knowledge of the fact, declare him to be, yet he is entitled to a fair and impartial trial; and the constitution secures to him the benefit of counsel. You will perhaps, as your last resort, for in truth you have no other, tell me that at all events you wish him to be hung, and therefore are enraged at every thing which interferes with your wishes. Then, sirs, you ought to proceed in the true French style, for which indeed you appear quite ready—"Hang first, and try afterwards:" it would save a world of trouble, and gratify many a revengeful malignant fiend.

The whole burthen of my crime is resolved to this—That I have, in a case where the honour, the life of a friend, and the happiness of all who are dear to him, are at stake, had the hardihood, even although it might prevent you from feasting on his blood, to offer to him, from motives of friendship, those services which the trifling abilities my God hath kindly bestowed on me, may enable me to render him. I have thrown my body as a shield between the dagger of the assassin and the heart attempted to be pierced!

And for this conduct, for which, if history records the event, I shall be respected as long as the page of history shall last, by all the worthy and

good—yes, for this conduct, not only innocent, but praiseworthy, if any conduct of man can be so, you, the advocates of the constitution—you, exclusive republicans—you, the supporters and advocates of the rights of man, and of a government of laws—you, the sworn enemies of despotism, in whatever shape it may appear—would, if in your power, arm an infuriated mob against a private individual who never gave you the slightest cause of complaint—and would be glad to see him, if his life was spared, suffer insult and injury to the last extreme which could be inflicted! Remember, gentlemen, I only hold up to your view the mirror of truth; blame yourselves only for the monstrous images of deformity which meet your vision.

In your toast you have particularly noticed me as "the mutual and highly respected friend of an indicted traitor."

Remember, gentlemen, a few years only have passed since you boasted of your friendship for col. Burr. Your tongues, at that time, moved as quickly, and with as much ease, as doth the aspen leaf under the influence of the atmosphere, in his praise; and had I then presumed to have treated his name as you have treated it, I should not have been surprised had I been tarred and feathered—and indeed should have thought that I richly deserved it. He was then your *political* friend—*such he never was to me*—Our friendship has been *personal*; our *politics* have ever been *different*. Think, then, if my heart was such a heart as you possess—that my friendships were formed from political motives only, and depended entirely upon the situation of the person—whether he was in power, or a private citizen—whether he was the object of executive favouritism or persecution: Cannot you suppose such a heart might be gratified in the extreme, to see that power which *he did bestow*, which *he only could have bestowed*, upon one who now possesses power, (a *truth* notorious, and which democracy hath often acknowledged) now exerted for the destruction of him who gave it? Yes, gentlemen, if my heart was like yours, I might perhaps take as savage a pleasure in beholding his execution as it is evident you would take.

A few words more, before we part. You have shown to the world a disposition to expose me to an enraged mob—a disposition to see me suffer insult and injury, and what I suppose such beings as you would call *disgrace*. My life, I acknowledge, is in the power of an assassin—it is in the power of an infuriated multitude; but to me that is a consideration which never hath nor never will influence my conduct. I know that I must die—To me, who have lived longer than I had a right to expect, the time when it shall take place is not to myself of much consequence; nor do I know that it is so to my country; but there is a number of individuals to whose felicity my life is of importance—for their sake, I would not rashly expose it. As to the manner in which my life shall terminate—whether surrounded by friends, in my bed—whether torn limb from limb by an enraged mob—or whether perjury should "exalt me on the scaffold"—is to me *perfectly indifferent*: my *future existence* will not be thereby affected; nor can I, by the manner of my death, nor by brutal violence in my life, be disgraced. I hold my reputation and my honour on a much surer tenure than the unstable voice of what is commonly called popularity, to obtain which I never sacrificed one feeling of my heart, nor one duty which I owed either to God or to man.

I AM KNOWN, *and I am respected*, in every state and in every territory belonging to the United States. I repeat, *I am* RESPECTED—Do you wish to know why? Because my heart is the very reverse of those belonging to my Elkton toasters; because I never intentionally injured a human being; because, instead of increasing the miseries of human life, I would, if possible, render this world a paradise; because my wishes have been proved sincere by my conduct, as far as my

fortune and my situation in life have given me power; and because it is known I am *incapable to desert a friend in distress.*

On the subject of mobs, permit me to assure you, I fear no violence from any combination of American citizens. By that description I mean all those, of whatever clime, who were here when the peace of 1783 took place, and the descendants of all such persons—My name disclosed, even should my person not be known, would, as to them, be a security from violence.

I now, gentlemen, take my leave of you, most sacredly assuring you, that, as to what relates to myself, I freely forgive you, and that I feel no resentment against you. My indignation hath been excited and expressed against your conduct, on account of colonel Burr—on account of its immediate tendency, and your wicked intention, to deprive him, in a case where his honour and his life are at hazard, of that fair, impartial trial, which the constitution and laws of your country stand pledged to him that he should have; of which pledge, with a sacrilegious hand, you have robbed him. And I have been actuated by a wish to express to the public my detestation of, and as far as in my power put an end to, that infamous, that infernal, that murderous conduct, which has been common in the democratic papers, and too much countenanced in some of the federal papers—to make the press, which ought to be the guardian of liberty, the shield of innocence, and, even as to guilt, the angel of mercy—to make that press the demon of envy, hatred, and revenge—the Moloch of persecution, whenever personal or political enemies were to be hunted down: a practice not only the dishonour and disgrace of this country, but under which no man can be safe: such has been the conduct of printers on a former occasion as to colonel Burr; such has been the conduct of printers in the case of Selfridge; such has been the conduct of printers in the present case as to colonel Burr; but you, gentlemen, have the unparallelled guilt, which I hope will never be paralleled, of endeavouring to turn the fourth of July into an *auto defe* on that day to burn your victims.

And remember, gentlemen, what is colonel Burr's case now, may be the case of any one of you hereafter, unless you are protected by your insignificancy. You may become obnoxious to individual hatred; you may become obnoxious to some future administration; you may be accused of some capital crime. Interest and influence, hatred and malice, may inflame the public mind against you; the celebrators of the fourth of July may devote you to a halter, before a jury whose minds have been poisoned against you; you may be brought for trial, before a jury that has already prejudged your cause, from the public papers, as you have prejudged the cause of col. Burr. Their fiat is to determine whether you die an ignominious death; whether your wives and children shall suffer despair and distraction. In such a situation you will feel the infamy of that conduct of which you have boasted: and you will then know how to appreciate the merits of any gentleman who shall dare to advocate your cause even for the consideration of money, leaving friendship out of the question.

LUTHER MARTIN.

British account of the late outrage on the Chesapeake.

HALIFAX, (N. S.) July 10.

His Majesty's bring Columbine, Capt. Bradshaw, from the Chesapeake, on Saturday last, brought dispatches for Vice-Admiral the hon. G. C. Berkeley, relative to a most unpleasing rencounter which took place on the 24th ult. between H. M. Ship Leopard, Captain Humphreys, and the American frigate Chesapeake, Capt. Barron—in consequence of proceeding to carry into effect the following *Order* from the comman-

der in chief on this station; which with the subsequent letter, &c. we have extracted from the Gazette of Tuesday last.

BY THE HONOURABLE
GEORGE CRANFIELD BERKELEY,

Vice-Admiral of the White, and commander in chief of his majesty's ships and vessels employed in the river St. Lawrence, along the coast of Nova-Scotia, the Island of St. John and Cape Breton, the bay of Fundy, and at, and about the island of Bermuda, or Somer's island.

WHEREAS, many seaman, subjects of his Britannic Majesty, and serving in his Majesty's ships and vessels, as per margin,* while at anchor in the Chesapeake, deserted and entered on board the frigate Chesapeake, and openly paraded the treets of Norfolk, in sight of their officers, under the American flag, protected by the magistrates of the town, and the recruiting officer belonging to the above mentioned American Frigate; which magistrates and naval officers refused giving them up, although demanded by His Britannick Majesty's consul, as well as the captains of the ships from which the said men had deserted: the captains and commanders of his majesty's ships and vessels under my command, are therefore hereby required and directed, in case of meeting with the American Frigate Chesapeake, at sea, and without the limits of the U. States, to shew to the Captain of her this order, and to require to search his ship for the deserters from the before mentioned ships, and to proceed and search for the same; and if a similar demand should be made by the American, he is permitted to search for deserters from their service, according to the customs and usages of civilized nations, on terms of peace and amity with each other.

Given under my hand, at
Halifax, Nova-Scotia,
the first day of June, 1807.
(Signed) G. C. BERKELEY.

To the respective Captains and commanders of his Majesty's ships and vessels on the North American station.

* *Belleisle, Bellona, Triumph, Chichester, Halifax, Zenobia (cutter).*

Extract of a letter from a Gentleman on board his Majesty's ship Leopard, dated

CHESAPEAKE BAY, June 24, 1807.

"We arrived here on the 21st inst.—and, agreeably to the orders of the Hon. Vice-Admiral Berkely, (in the event of meeting the United States frigate Chesapeake, to search her for deserters, of whom we had information), the next morning, the signal was made from the Bellona to proceed to sea, which we did, at 9 o'clock this morning: the Chesapeake was then passing the Bellona, about three miles within us—We stood to the S. E. with the wind at S. W. until eleven, when it shifted to E. which retarded the progress of the frigate, being obliged to beat out—we kept on a wind, under easy sail, until she got within two miles of us, when she shortened sail, and we bore down to her, we were about 12 or 14 miles from the land; when sufficiently close, the captain hailed, and said he had dispatches from the British Commander in chief—the answer was, "send them on board, I shall heave too," which he did accordingly—I was sent on board with the admiral's order, and a letter from captain Humphreys, saying, he hoped to be able to execute the admiral's order in the most amicable manner; and, after the Commodore read the order and letter, he told me, his orders from his Government were most peremptory in not suffering any foreigner to muster his ship's company, but that he would write an answer to Capt. Humphrey's letter, if I would be the bearer of it to him—after having answered in the affirmative, he wrote, saying that HE HAD NO DESERTERS, and that his instructions prevented si allowing the Chesapeake to be searched. —I returned with this answer, after being on board 40 minutes. As the Admiral's order was positive, there was no alternative but force—so we we edged down to her, and captain Humphreys hailed, and said, that Commodore Barron must be aware that the order of the British Commander in Chief must be obeyed; the only

reply made to this, (which was thrice repeated,) was, "I do not understand what you say;"—now as we were to windward, and heard distinctly his answers, it was evident he must also have heard what Capt. Humphreys said—orders were then given to fire a shot a-cross her bows from the lower deck; after a minute another; and, in two more, no satisfactory answer being given, Captain Humphreys ordered the fire to be opened on her, beginning with the foremost gun, and in succession after: but as the order was not perfectly understood, a broadside was poured into her. Commodore Barron then hailed, when orders were given to cease firing, but as he only said he was going to send a boat on board, and as they were preparing to return the fire, it was supposed an artifice to gain time, and orders were again given to fire—two broadsides more were the result, when she struck. Two lieutenants, with several midshipmen, went then on board the Chesapeake to search for deserters, and after being there three hours, returned with four—three belonging to the Melampus, and one to the Halifax; the latter is the fellow who abused lord James Townshend at Norfolk. Commodore Barron wrote to Captain Humphreys, saying, that he considered the Chesapeake as his prize, and that he was ready to deliver her to any person authorized to receive her;—Capt. Humphreys replied, that as he had executed the orders of the commander in chief, he had nothing more to do with her; that he must forthwith join the rest of the squadron, and that he not only lamented, most sincerely, the necessity that compelled him to violent measures, but that if he could render the Chesapeake any service, he would cheerfully do it. In short, Capt Humphreys has conducted himself throughout the whole of this unpleasant transaction, in the most praiseworthy manner, as an officer and gentleman—he has more humanity in his composition than most mankind; you may then suppose his feelings were none of the most comfortable on this occasion. The Chesapeake returned but a few shot—they were scarcely prepared when we began, and were thrown into such confusion, that the greatest part of the people deserted their quarters

"The number killed on board the Chesapeake, according to their own statement, was 6—and 23 were wounded.

"Twenty-six shot went through the hull, seven between wind and water; the sails were completely riddled, and I have not a doubt but that in 10 minutes more she would have gone down, the sea being so smooth, every shot told after the first broadside, which was chiefly at the rigging.

"Commodore Barron was slightly wounded in the leg by a splinter—he behaved in the coolest way imaginable, and stood at the open gang-way the greatest part of the time."

If any thing can place this matter in a stronger light, we need only compare the assurances of Commodore Barron, with the result. Of the deserters claimed, six were taken out of the frigate, upon searching her, two were killed, and one jumped overboard. The gunner of his majesty's ship Chichester; who basely deserted his country's flag, was found dead, acting in that station, on board the American frigate, and many others were left by Captain Humphreys, because they could not be identified.

WAR, OR NO WAR?

Is the anxious inquiry of every American who is a friend to his country. Peace with honour, or war perpetual, is the public sentiment. But let us, before we unsheath the sword, be assured that our cause is just, and that we may in full confidence of our rectitude appeal to the God of armies.

That the British in some shape or other have a right to reclaim their subjects who have deserted from their vessels, no rational person will deny, and report says that the principal question in dispute between Great-Britain and the U. S. is,

"Whether the U. S. will insist, at all hazards, that Great-Britain shall stipulate by treaty, that the American flag shall protect all seamen and passengers sailing under it, even if such seamen and passengers be British, Irish, or Scotch deserters, emigrating subjects, or refugee traitors; and that all vessels bearing the American flag be exempt from search after such persons, in the seas which border on the British islands, as well as on the high seas." [*Col. Cen.*

This is indeed the substance of the cause of contention between the two nations. It was stated so to be at the time that Mr. Jefferson in a most contemptuous manner sent back the trea-

ty with Great-Britain, without even condescending, as the constitution should seem to require, to lay it before the senate.

What then could be done by Great-Britain? She must either yield the principle for which she contends, or she must enforce it. Her yielding the principle would, we believe, not only be wrong in itself, but serious in its immediate consequences to her, and we fear eventually so to the world, whose bulwark she stands, and whose battles she is fighting.

We learn from admiral Berkeley's letter that 8 seamen had deserted from on board the Melampus and the Halifax, two British frigates, whom he determined to reclaim. These men were not only deserters, but mutineers; for, says the editor of the Norfolk Ledger,

"As to the rising upon the officer, we know it to be a fact, as the editor was present when he related the circumstance. We know that the mayor was applied to, and that he refused to give them up, because he said so in the presence of the editor."

We have likewise information that these men were demanded at Washington, and refused: and, as was justly remarked by a writer in the United States Gazette, "in any other country the official letter of the commodore would have been published as soon as it had come to hand; and long before this a court of inquiry would have been assembled to know what were the causes which led to the disgrace of our national flag. We should have been informed of the nature of the previous investigation of those seamen's situation. But as we are in a land of *liberty*, it seems a very bad use might be made of this knowledge."

Enough, however, has transpired to put it beyond a reasonable doubt that a proper demand was made of these deserters and mutineers, and that our government refused to give them up. Every one knows that by the laws of all nations deserters and mutineers are considered as criminals of the deepest guilt; and indeed the toleration of their crimes would be a stroke at the vitals of society.

According to the laws of all nations, the refusal of a government to surrender such criminals as have fled from justice to the nation within whose jurisdiction the crime was committed, is considered as a just cause of war. The nation against whom the offence is committed, may wave the right which such conduct gives of declaring war, but that the right exists there can be no question.

But it may perhaps be argued that the refusal of our government to surrender these mutineers, might be a good ground for a declaration of war on the part of the English government, but such refusal would not authorize the violent proceedings by which the British attempted redress—That after due attempts to settle the difference by negociation, if redress was refused, a formal declaration of war ought to precede the having recourse to forcible measures. But

"It is not always necessary to authorize the having recourse to arms, that all methods of reconciliation have been expressly rejected; it is sufficient that there is good reason to believe that the enemy would not enter into these measures with sincerity; that the issue of them could not be happy, and that a delay could only put the state in greater danger of being oppressed. This maxim is incontestible, but the application of it to practice is very delicate. A sovereign, who would not be considered as a disturber of public repose, will not be induced abruptly to at-

tack him who has not refused pacific measures, if he is not able to justify to the whole world that he has reason to consider these appearances of peace as an artifice tending to amuse and surprise him. To pretend to be authorized by mere suspicions alone, is to shake all the foundations of the safety of nations." *Vattel, Book* II. *Chap.* XVIII. Sect. 334.

Such is the law of nations. It is argued, however, that the American flag ought, in all cases, to protect what it covers. But even the American territory, the city of Washington, the capitol, or President's closet, could not protect criminal fugitives from justice; and surely a national ship is not to be an asylum for felons.

Besides the injustice of a war with Great-Britain, it would be at this time in the highest degree injurious to our own interests. It would be cutting off our right hand with our left. Will our purblind politicians never be convinced of a truth, which is as obvious as the cloudless sun at its meridian, that if you take away the British navy, Bonaparte will be as absolute at Washington as he is at Paris? Why would they paralize the only arm, save that of Omnipotence, which can respite them from destruction? Do they not yet know that France is fighting for empire, Great-Britain for independence, nay, for existence as a nation? That her immense navy is the only instrument which can prevent her immediate and inevitable ruin? That should she be conquered, her case would be much more deplorable than what the most gloomy imagination can conceive; worse, infinitely worse, than would have been ours, if success had not attended our revolutionary exertions? No; having eyes, they see not, and ears, they will not hear.

It is high time to speak plainly on this subject. The interests of the country most imperiously demand it. Our time-serving politicians (some calling themselves federalists, as well as others have strove long to catch the gale of popular applause, by pretending to be peculiarly hostile to Great-Britain. They have failed in their efforts, and have lost the confidence of one party without gaining that of the other.

Some will tell us that these are *tory sentiments*. To such I would reply, that they are the sentiments of an independent American, who is no further friendly to Great-Britain than she proves herself just and friendly to America and to mankind. That as Great-Britain is fighting for independence, the same principles which actuated American *whigs* in our revolutionary struggles, ought to induce us at least to wish her success, instead of throwing our weight into the scale of opposition. Those who maintain different principles, are *tories* of a very vile species.—They are *French tories*—they are *jacobin tories*—they are *Bonaparte's tories*.—They are pursuing measures, and are the advocates of principles, which would place the world at the feet of France, and introduce a despotism into this and all other countries more dreadful than ever before scourged the human species.

The conduct of our government, with regard to the origin of the late unhappy occurrence in the Chesapeake, is thus animadverted on by a writer in the U. S. Gazette.

The truth is that for the last four years we have had no cabinet, no government; every thing has been smothered, and the nation kept in utter darkness. Now and then by mere accident, a ray of light

flashes across the universal gloom, just enough to let the people see, that dangers surround them on all sides. It appears to me, that until the government will unfold these mysteries, let the people see what they have been negotiating about with all the nations of the earth for four years; what are the points in controversy; in what *it is* that Great Britain refuses justice, and where she is guilty of wrong; I say until our government take the lead and develope their views and measures, both prudence and justice require at least moderation.—They have not even yet informed the country what the facts are in regard to the Chesapeake. Where those men deserters; were they demanded as such; were they put on board the Chesapeake in defiance; was a challenge given to Douglas? I do not affirm these things, nor at all justify the attack; but surely the public before they feel should know something.

The same writer in speaking of the probability of a war, in consequence of the folly and madness of our government has the following remarks.

And now, sir, be assured I am not for sneaking out of a war; I think it must happen; it has been brought on us, not by King George, but King Thomas; it has been invited by weakness, by temporising, by irritation, by all that malevolence and timidity, and a wretched party going mob-courting policy could produce. In short we are on the eve of war. The British *will not yield, what we now must demand*, and the country before it declares war, will have *to change its administration* or sink under the first blow, town meeting and democratic resolves notwithstanding.

Z.

Accounts from Washington, state, that the Spaniards at Mobile, have seized 200 stands of arms, and a quantity of ammunition belonging to the U. S. destinod from N. Orleans to fort Stoddart. This seizure was made by the Spanish commandant at Mobile, and afterwards approved by the Governor General of the Floridas.

Such is the fruit of our boasted purchase of Louisiana!

POLITICAL PAMPHLET.

A pamphlet, entitled "THE VOICE OF TRUTH, or, Thoughts on the affair between the Leopard and Chesapeake," has been published by Mr. J. Osborn, No. 13, Park.

This pamphlet is written with ability, but it will undoubtedly be thought by many with too great acerbity. It seems, however, that the *fortiter in re* ought not at this period to be sacrificed to the *suaviter in modo*. The author reprobates the conduct of many of the federalists in forming a junction with the Burr and Lewis sections of the democratic party; and so far our sentiments are in perfect unison with his. As respects the union of all parties to resent the supposed outrage in the Chesapeake, it may be observed, by way of palliation, that when the proceedings took place in the Park, which have called forth so much of the writer's animadversion, the affray in the Chesapeake had a totally different appearance from what it now wears. It then appeared to be the commencement of a war, in which it was the duty of every American to defend his country; and Federalists the followers of Washington, could not be the last to take the field. The pamphlet on the whole deserves the attention of every American. We would particularly recommend that part which pourtrays the dangers of French dominion, and points to Great-Britain as the conservator of the world, the last hope of nations not already within the grasp of French ambition.

FOREIGN.

Dantzic has capitulated. 800 pieces of artillery, and immense magazines of all kinds have fallen into the hands of the French. The garrison marched out on the 27th of May, with Gen. Kalkreuth at its head. This garrison say, the French, at first consisted of 16,000 men, but was reduced to 9000.

The siege of Grandentz, has commenced under the command of Gen. Victor. The French Emperor is reviewing his troops, and preparing to commence the summer's campaign with vigour.

The Turks have been successful against the Russians at Ismail and Wallachia. The Russians have been obliged to raise the siege of Ismail and evacuate Wallachia.

The Russians have taken the Castle of Tinedas by assault. The head of the Turkish Treasurer has been exposed on the gates of the seraglio. He was condemned for not having taken measures for the defence of the Dardanelles.

A grand expedition is fitting out from England. Its destination is unknown.

Military operations on the continent, are said to be considerably checked, in consequence of the expectations of a general peace, to be negociated under the mediation of Austria.

To the Editor of the Weekly Inspector.

SIR,

The enclosed lines have been written upon the loss of the finest Canary bird perhaps this country has produced. He had the greatest compass and at the same time variety of notes I have heard from any bird; and, what was peculiar almost to himself, he sang during the night as much as in the day: in short, sir, he literally sang himself to death. Should you think the lines worth the trouble of your notice, and have a place for them in your excellent paper, by inserting them you will oblige one of your readers. JULIA.

New-York, July 29, 1807.

I.

Sing, lovely bird, as thou wert wont to sing,
And soothe the throbbings of my aching head;
From thy lov'd stores of mellow music bring
Thy choicest song—and let it sweetly ring
In varied excellence—thou tiny thing—
For thou canst cheer the dying, or awake the dead.

II.

Stretch wide thy little throat, in all its powers,
And in full melody pour forth thy songs;
Make glad the measure of my passing hours,
Now *soft*, now *slow*, then *quick*, in dulcet showers
Let fall thy notes, as when Apollo pours
The rapid music, or the dying notes prolongs.

III.

'Tis I who call thee, lovely bird, awake!
Why sleep'st thou, when thy friend a suppliant pleads?
Canst thou not from thy tiny slumber break?
Nor from thy dreams a duteous absence take,
And to my soul thy fond affection speak?
If not, *dear bird*, sleep all thy little nature needs.

IV.

Alas! my bird, thou hearest me no more;
Death's icy hand hath chill'd thy little lay;
Gelid and dead thou art!—thy chaunting power
A beauteous ruin lies—a wither'd flower—
Are thy remains—and thy sweet notes are o'er;
Yet in my heart shall live and grow for aye.

V.

Farewell, sweet bird! a lasting long farewell!
I ne'er shall see thy beauteous like again;
'Twas thine each plumy songster to excel;
And memory oft shall fondly love to dwell
On thy sweet song, and all thy varied skill;
Like joys long past—a mournful pleasing pain.

The following, written by a friend of the Editor of the W. I. was originally published in the *Farmer's Museum*, while under the direction of Joseph Dennie Esq. a gentleman, whose reputation as a polite scholar, is above the reach of our eulogy. We do not recollect ever to have seen a more complete and finished specimen of alliteration; which though by some thought an illegitimate species of wit, like rhymes and puns will probably continue to please, in spite of the formula of philosophers and rhetoricians.

CITIZEN CARLISLE,

Pleased with a peculiar piece of poetry, printed at your press, announced as "an alliterative address," I annex an answer alphabetically arranged. Please to publish it in your popular paper.

FRIGHTED FANNY'S FAITHFUL FRIEND, *to* FREDERIC, FICTIOUSLY FOND.

ARTFUL ape of amorous airs,
Baneful bait thy ballad bears;
Coaxing coxcomb, curb thy course,
Disdain the dark, the De'il divorce.
Ever eager to ensnare
Foolish, flighty, friendless fair;—
Grisly ghosts, and goblings growling,
Hurl him headlong, hideous, howling.
Impious image, imp ingrate,
Know, you kill'd the kindly Kate;
Lovely Lydia, lank and lone,
Mopes with meagre, morbid moan;
Ninety nymphs, nay, ninety nine,
On thy odious oaths opine;
Pens and pencils pine to paint
Quibbling quiddities, or quaint;
Rigid reason rants and roars,
Sighs and sobs, and sinks and soars;
Tries the tender, tries the terse,
Vents variety in verse;
Warbles words, which wisely won
Xenocrates and Xenophon.
Younker, yield to yawning, yea—
Zounds, I'm safe at zigzag zee.

Published for THOMAS GREEN FESSENDEN, at E. SARGEANT'S Bookstore, No. 39, Wall-street, opposite the U. S. Bank.

PRINTED BY HOPKINS AND SEYMOUR, AT WASHINGTON'S HEAD.